



IN THE NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH
COURT NO. 1

ITEM No.2
IA/267(MP)2023
in

TP 215 of 2019 [CP(IB) 580 of 2019]

Proceedings under Section 60(5)(c) of IBC, 2016 r.w. Rule 11 of NCLT Rules, 2016

IN THE MATTER OF:

Kalyan Toll Infrastructure Ltd

.....Applicant

V/s

Sajjan Kumar Dokania, Liquidator of Patwa Automotive Pvt
Ltd

.....Respondent

Order delivered on 30/11/2023

Coram:

P. Mohan Raj, Hon'ble Member(J)

Kaushalendra Kumar Singh, Hon'ble Member(T)

PRESENT:

For the Applicant :

For the Respondent :

ORDER

IA/267(MP)2023

The case is fixed for pronouncement of the order.

The order is pronounced in open Court *vide* separate sheet.

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

A. Bhadauria

-SD-

P. MOHAN RAJ
MEMBER (JUDICIAL)



BEFORE THE ADJUDICATING AUTHORITY
NATIONAL COMPANY LAW TRIBUNAL
INDORE BENCH

IA/267/MP/2023

in

TP/215/MP/2019 [CP(IB)/580/2019]

(An application under Rule 11 of NCLT Rules, 2016 read with section 60(5) of the Insolvency and Bankruptcy Code, 2016)

In the matter of:

Kalyan Toll Infrastructure Limited

Through Varun Garg,
Authorized Signatory,
Vidya Deep, 15/3,
Manoramaganj,
Indore, Madhya Pradesh- 452001

.....Applicant

Versus

Mr. Sajjan Kumar Dokania

Liquidator of:
M/s Patwa Automotive Private Limited
25, Globus Fab City,
Kolar Road, Chuna Bhatti,
Bhopal, Madhya Pradesh- 462016

.....Respondent

In the main matter of: [TP/215/MP/2019, (CP(IB)/580/2019)]

(An application under section 7 of the Insolvency and Bankruptcy Code, 2016)

Ritwik Finance Enterprises Pvt Ltd

CIN: U70101WB1987PTC043367
Having its registered address at:
P-1 Unique Park
Near Debalaya Shiv Mandir,
Behala, Kolkata
West Bengal- 302001

.....Financial Creditor

Versus

Patwa Automotive Pvt Ltd

CIN: U01711MP1997PTC011615
Having its registered address at:
Lasudia Mori Dewas Naka,
A.B. Road, Indore,
Madhya Pradesh- 452012

.....Corporate Debtor



Order pronounced on: 30.11.2023

Coram: P. Mohan Raj, Hon'ble Member (J)
Kaushalendra Kumar Singh, Hon'ble Member (T)

Appearance:

For the Applicant : Ld. Adv. Mr. Vijayesh Atre a.w.
Ld. Adv. Ms. Aarya Chhangani &
Ld. Adv. Mr. Akshat Sharma

For the Respondent : Ld. Adv. Mr. Nipun Singhvi a.w.
Mr. Sajjan Kumar Dokania (**Liquidator – in person**)

ORDER

1. The present application was filed on 13.09.2023, by Mr. Varun Garg, Authorized Signatory of M/s Kalyan Toll Infrastructure Limited (Applicant), under Rule 11 of NCLT Rules, 2016 read with section 60(5) of the Insolvency and Bankruptcy Code, 2016 (the Code), seeking some reliefs and appropriate directions from this Adjudicating Authority.

2. The averments made by the applicant in its application and presented/argued by the learned counsel for the applicant are summarized hereunder:

(i) The financial creditor filed an application under section 7 for initiating Corporate Insolvency Resolution Process (CIRP) against the corporate debtor which was admitted by the Adjudicating Authority vide order dated 09.09.2020. Mr. Sajjan Kumar Dokania, respondent herein was appointed as the Interim Resolution Professional (IRP) of the corporate debtor and subsequently, was appointed as Resolution Professional (RP) for the CIRP of the corporate debtor.

(ii) This Adjudicating Authority vide order dated 30.09.2022, allowed IA/14/MP/2022 filed by RP seeking liquidation of the corporate debtor and appointed RP as the liquidator of the corporate debtor.

(iii) The liquidator issued two E-Auction Process Memorandums on 24.12.2022, for auction of properties of corporate debtor, proposing sale of two pieces of land bearing 5490 Sq. Mtrs. and 3120 Sq. Mtrs. situated at Lasudia Mori, Indore, Madhya Pradesh.



(iv) The applicant on participation in the auction process was declared as the successful bidder w.r.t. the subject pieces of lands of the corporate debtor i.e. (i) Land admeasuring 5490 Sq. Mtrs. at Khasra No. 51/4, 50/6 & 49/5/3, Patwari Halka No. 45, constructed area 6388 Sq. Mtrs., for a sum of Rs 31,70,00,000/-, and (ii) land admeasuring 3120 Sq. Mtrs. At Khasra No. 49/5/1 & 50/4, Patwari Halka No. 17, for a sum of Rs 6,53,00,000/- aggregating to Rs 38,23,00,000/-, through E-Auction process dated 25.01.2023 arranged by the liquidator for which necessary declaration were issued.

(v) In terms of the E-Auction Process Memorandum, *qua* the land admeasuring 5490 Sq. Mtrs., the applicant was required to deposit the balance amount of Rs 31,20,00,000/- (after adjustment of EMD of Rs 50,00,000/-) and *qua* the land admeasuring 3120 Sq. Mtrs. , the applicant was required to deposit the balance amount of Rs 6,35,50,000/- (after adjustment of EMD of Rs 17,50,000/-) of the sale consideration, aggregating to Rs 37,55,50,000/- within 30 days from the date of the demand.

(vi) This Adjudicating Authority vide order dated 30.03.2023 while deciding IA/85/MP/2023 directed the applicant to deposit the amount of consideration at the time of receiving possession from the liquidator. However, to show bona-fides, the applicant has at its own already deposited a sum of Rs 28,68,00,000/- with the liquidator thereby leaving a balance of Rs 8,87,50,000/- which the applicant is prepared to deposit within ten days from the date of the final order.

3. In context of the above averments, following reliefs has been sought by the applicant:

(i) To kindly allow the applicant to pay the balance consideration within a period of ten days from the date of the final order.

(ii) To kindly allow the IA/186/MP/2023 permitting the liquidator to execute sale deed in the name of M/s Kalyan Celebrations Private Limited (under incorporation).



(iii) All the claims, dues, penalties, liabilities, demands, lien, charges, rights, compliances, encumbrance whatsoever of any person, body corporate, creditor whether secured or unsecured, panchayat, corporation, body or authority, whether governmental, semi-governmental or otherwise, over the land (i) Land admeasuring 5490 Sq. Mtrs. at Khasra No. 51/4, 50/6 & 49/5/3, Patwari Halka No. 45, constructed area 6388 Sq. Mtrs., for a sum of Rs 31,70,00,000/-, and (ii) land admeasuring 3120 Sq. Mtrs. At Khasra No. 49/5/1 & 50/4, Patwari Halka No. 17, for a sum of Rs 6,53,00,000/- aggregating to Rs 38,23,00,000/-, stand extinguished and the above two pieces of land and the building constructed thereon shall stand transferred to M/s Kalyan Celebrations Private Limited free from all encumbrances, claims, dues, penalties, liabilities, demands, lien, charges, rights compliances whatsoever on execution of registered sale deed in favour of the applicant by the liquidator.

(iv) Any other or further appropriate relief, order or direction which this Adjudicating Authority may consider appropriate in the interest of justice.

4. We have heard learned counsel Mr. Vijayesh Atre and perused the relevant records. It is noted that the applicant had earlier filed an IA No. 186/2023 under Rule 11 of the NCLT Rules, 2016 read with Section 60(5)(c) of the IBC, 2016 seeking direction to the liquidator to amend the terms and conditions of E-Auction Process memorandum and accept the sale consideration from M/s Kalyan Celebration LLP. Following that the applicant filed another IA No. 283/2023 under Section 60(5) r.w. Rule 11 of NCLT Rules for seeking permission to the liquidator to execute the sale-deed in the name of M/s Kalyan Celebration Pvt. Ltd. In that matter it was stated that the said M/s Kalyan Celebrations LLP (IA No. 186/2023) has now been converted into the subsidiary company of the Successful Bidder and in view thereof applicant wanted direction for execution of sale-deed in favour of the subsidiary company namely Kalyan Celebration Pvt. Ltd. It is also noted that the property under reference was in the possession of M/s Bhagwati Elite Motors. The



lease-deed had already expired on 31.03.2021 and thereafter following the initiation of CIRP in the case of Corporate Debtor, the CoC had given the extension of the lease-deed by three months, which had also expired on 30.06.2021. However, thereafter M/s Bhagwati Elite Motors retained its possession over the property and did not vacate. In that context, this Adjudicating Authority had issued direction to the jurisdictional Chief Judicial Magistrate, Indore for taking necessary steps to get the property vacated from the illegal unauthorized possession of M/s Bhagwati Elite Motors. It appears that for this reason the Applicant/Successful Bidder had not made the entire payment. However, following certain settlement amongst them, the payment has been made. The Successful Bidder also agreed for payment of the interest on account of delay. This Adjudicating Authority vide its order dated 20.10.2023 in IA No. 283/2023 had allowed that application thereby allowing the liquidator to execute the sale-deed in the name of its subsidiary company M/s Kalyan Celebration Pvt. Ltd (CIN: U68100MP2083PTC067816).

5. In view thereof, the relief as sought for at para 3 (i) and 3 (ii) becomes infructuous and no further direction are required to be given thereon.

6. As regards, the relief sought for at para 3 (iii), following the liquidation process and after execution of the sale-deed in favour of the subsidiary company of Successful Bidder, encumbrance whatsoever of any person, lien, charges, rights etc. over the said property automatically would get extinguished as per the provisions of the IBC and as such no further direction need to be issued in that regard.

7. Accordingly, the **IA/267 (MP)2023** is **disposed of**.

-SD-

-SD-

KAUSHALENDRA KUMAR SINGH
MEMBER (TECHNICAL)

Narendra S. Tomar/Stenographer

P. MOHAN RAJ
MEMBER (JUDICIAL)